

Verizon opted for functional/structural separation under a code of conduct. This approach would include accounting requirements to prevent cross-subsidization and rules requiring non-discriminatory treatment of retail competitors.¹⁸⁹

The Commission can rely, therefore, on the declarations of the New Jersey Legislature and the New Jersey Board's actions to identify the strong public interest in ensuring future competition through full structural separation or functional/structural separation. Either of these approaches would be measured, viable means to ensure that Verizon-NJ and its retail competitors compete on a full, fair and equal basis. One of these approaches is required to satisfy the public interest test for a grant of section 271 authority. In addition, Verizon has already agreed to functional/structural separation in a neighboring state. Accordingly, the Ratepayer Advocate respectfully urges the Commission not to grant interLATA service authority unless and until it provides for structural separation of Verizon-NJ's retail and wholesale operations.

¹⁸⁹ *Id.* at 30.

CONCLUSION

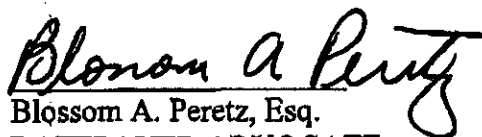
For the foregoing reasons, the New Jersey Division of the Ratepayer Advocate respectfully urges the Commission to deny Verizon-NJ authorization to provide in-region, interLATA services in New Jersey. Verizon-NJ should not receive such authorization until it has established its compliance with Track A and Checklist Item ii, shown that authorization would be in the public interest, and agreed to structural separation of its wholesale and retail activities.

Dated: January 14, 2002

Respectfully submitted,

Lawanda R. Gilbert, Esq.
Deputy Ratepayer Advocate


Jose Rivera-Benitez,
Joshua Seidemann
Elana Shapochnikov
Ava-Marie Madeam
Janine Durand
Asst. Deputy Ratepayer Advocates


Blossom A. Peretz, Esq.
RATEPAYER ADVOCATE

Division of the Ratepayer Advocate
31 Clinton Street – 11th Floor
P.O. Box 46005
Newark, New Jersey 07101
(973) 648-2690

CERTIFICATE OF SERVICE

I, Leslie LaRose, hereby certify that on this 14th day of January, 2002, I have served a copy of the foregoing document via hand delivery and overnight mail*, postage pre-paid, to the following:


Leslie LaRose

Chairman Michael Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Commissioner Kathleen Abernathy
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

Commissioner Michael Copps
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Commissioner Kevin Martin
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Kyle Dixon
Legal Advisor to Chairman Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Matthew Brill
Legal Advisor to Commissioner Abernathy
Federal Communications Commission
445 12th Street, S.W., Room 8-B115
Washington, D.C. 20554

Jordan Goldstein
Legal Advisor to Commissioner Copps
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Sam Feder
Legal Advisor to Commissioner Martin
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

Janice Myles
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-B145
Washington, D.C. 20554

*Anthony Centrella
Director, Division of
Telecommunications
New Jersey Board of Public Utilities
Two Gateway Center, 8th Floor
Newark, NJ 07102

John M. Lynch
U.S. Department of Justice
Antitrust Division, Telecommunications
Task Force
1401 H Street, NW, Suite 800
Washington, D.C. 20530

Qualex International
Portals II
445 12th Street, S.W.
Room CY-B402
Washington, D.C. 20554

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Application by Verizon New Jersey)	
Inc., Bell Atlantic Communications,)	
Inc. (d/b/a Verizon Long Distance),)	CC Docket No. 01-347
NYNEX Long Distance Company)	
(d/b/a Verizon Enterprise Solutions),)	
Verizon Global Networks Inc. and)	
Verizon Select Services, Inc. for)	
Authorization to Provide In-Region,)	
InterLATA Services in New Jersey)	

DECLARATION OF BLOSSOM A. PERETZ, ESQ.

Background and Purpose

Blossom A. Peretz, of legal age, declares and states as follows:

1. My name is Blossom A. Peretz. I am the Director of the Division of the Ratepayer Advocate for the State of New Jersey. As Director of the Division of the Ratepayer Advocate, I represent and protect the economic interests of all New Jersey ratepayers — residential, small business, commercial and industrial – in all policy matters, including rate issues, that will affect the provision of telecommunications, energy, water and wastewater services. My primary mission is to make sure that all classes of utility consumers receive safe, adequate and proper service at affordable rates that are just and nondiscriminatory, including affordable access to new technologies. Moreover, as Director of the Ratepayer Advocate's office, I work to ensure that all New Jersey consumers are provided with choice of energy and telecommunications providers, and that they are knowledgeable about the choices they have in the emerging age of utility competition.

2. The Ratepayer Advocate's office was established in 1994 by Governor Christine Todd Whitman's reorganization plan. The Ratepayer Advocate is a party to every proceeding in the State of New Jersey in which utilities seek to alter their rates or services. In each case, the Ratepayer Advocate thoroughly investigates all aspects of the utility's request. The investigation is based on detailed information that the utility provides regarding its request for changes in service or rate increases, and is frequently accompanied by an exchange of additional information that the parties to the particular proceeding feel pertinent. The Ratepayer Advocate's attorneys, along with consulting economists, accountants, and engineers, analyze that information and develop independent conclusions regarding the reasonableness of the utility's request and prepare and file testimony to support those conclusions and protect ratepayers' interests. Later, as a party to evidentiary hearings, the Ratepayer Advocate generally cross-examines the utility's witnesses and submits evidence to support the Ratepayer Advocate's position.

3. Before becoming Director of the Ratepayer Advocate, I served as Secretary of the Board of Public Utilities (the "Board" or "BPU") and among other responsibilities supervised the BPU's Bureau of Customer Assistance, which handles individual ratepayer complaints regarding utility bills and services.

4. Prior to my positions at the BPU, I served as deputy attorney general for the State of New Jersey with the Division of Law, counseling the Board on legal matters and litigating a number of cases involving protection of consumers' rights to safe, adequate and reliable utility service.

5. I earned my undergraduate degree from Wellesley College and my law degree from Yale Law School.

6. This declaration focuses on the lack of competition in New Jersey's residential local exchange market and additional reasoning behind the Ratepayer Advocate's recommendation against approval of Verizon-New Jersey's ("Verizon-NJ's") section 271 application at this time. In addition to my statements on the lack of competition in New Jersey, in this declaration I am sponsoring certain documents supporting these statements (see below). I also hereby verify the accuracy of the public documents contained in Attachments 18, 21 and 22 to the Ratepayer Advocate's Comments in Opposition, all of which are public documents before the Board. Attachments 18 and 21 consist of Board transcripts. Attachment 22 is a letter submitted by AARP New Jersey to the Board opposing Verizon-NJ's section 271 on state universal service grounds.

There is no Competition in the Residential Local Exchange Market in New Jersey

7. In its section 271 filing to the Board, Verizon-NJ asserted that competitors served approximately 680 residential customers. Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc., Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks, Inc., and Verizon Select Services, Inc. for Authorization to Provide In-Region, InterLATA Services in New Jersey ("Application"), App. B, Tab 1, Part A, Declaration of Dennis M. Bone ¶ 8. In that proceeding, Verizon-NJ failed to provide evidence supporting this number. In fact, the evidence at the state level demonstrated that none of the CLECs questioned as to the matter by Verizon-NJ were offering facilities-based residential service in competition with Verizon-NJ. Attachment 12.

8. In its application to the Commission, Verizon-NJ, for the first time, asserts that competitors serve "approximately 850 residential lines over their own facilities (including platforms)." Application at 8. Verizon-NJ does not provide any explanation for the sudden

surge in the number of facilities-based residential lines served by competitors. Moreover, Verizon-NJ fails to provide any explanation as to why it did not supplement the record before the Board regarding these “new” numbers.

9. This failure to supplement the record in the state proceeding is particularly troubling to me because Verizon-NJ now relies on different competitive carriers to attempt to show the presence of residential facilities-based (including UNE-P) competition in its federal Application than it did in its state filing. In the instant Application before the FCC, Verizon-NJ claims that the following four carriers are providing residential facilities-based services: Broadview Communications, eLEC Communications, Network Plus and MetTel. Application at 7-10. Yet, Verizon-NJ gave scant, if any, mention to eLEC, Network Plus or MetTel in the state proceeding. Moreover, while Verizon-NJ claimed that AT&T was providing UNE-P services to residential consumers in the state proceeding, Application, App. B, Tab 1, Bone Decl. ¶11, AT&T is not listed among the four providers allegedly providing residential services in Verizon-NJ’s Application.

10. Because Verizon-NJ is now introducing new numbers, neither the Ratepayer Advocate nor any other party in the state proceeding has had any opportunity to submit discovery requests to or to cross-examine Verizon-NJ on this information. Moreover, evidence was not presented in the hearings before the Board on Verizon-NJ’s current claims. Thus, the Board never had a record before it on the basis of which it could evaluate Verizon-NJ’s current claims on the existence of residential facilities-based competition.

11. Similarly, evidence from the proceeding before the Board also raises serious questions as to the accuracy of Verizon-NJ’s numbers. For example, Verizon-NJ did not know whether any of the alleged 680 residential CLEC lines represented actual paying consumers, or

whether they all represent CLEC employees or other test customers. In fact, Verizon-NJ President Mr. Dennis Bone admitted that he did not know whether any of the alleged UNE loops or UNE-P loops were being provided by competitors on a commercial basis. Application, App. B, Tab11, BPU 11/20/01 Hearing Transcript (Redacted), T.1431:2-7, 15-23, 1432:3-6.

12. Moreover, according to Verizon-NJ's response to data requests from the Ratepayer Advocate (RPA-VNJ 112, 131), included as Attachment 13 to our Comments, competitors operating in New Jersey have far fewer standalone and UNE-P loops and UNE-P switching ports than competitors in the other Verizon states in which in-region, interLATA authority has been granted.

13. If competitive carriers in New Jersey provide residential service in competition with Verizon-NJ (and, to the best of my knowledge, they do not), they do so on an order of magnitude significantly less than in every state, including New York, in which Verizon has received section 271 approval. Competitors in New Jersey thus will face even more severe wholesale provisioning problems with Verizon-NJ than competitors did in New York after Verizon-NY was granted long distance authority in that state.

Verizon-NJ's OSS Systems Have Not Been Commercially Tested

14. Verizon-NJ has not subjected its Operations Support Systems to commercial testing. Rather, Verizon-NJ relies exclusively on KPMG's OSS testing results. These tests were conducted in an artificial environment not subject to the pressures that a commercial environment would provide. The risk of OSS failure, as occurred in New York, is therefore even greater in New Jersey. The lack of commercial testing in New Jersey stands in stark contrast to other Verizon jurisdictions, such as New York and Pennsylvania, where commercial testing of OSS was completed before Verizon's 271 applications were approved.

15. Indeed, the need for commercial testing was recently highlighted to the Board. On December 21, 2001, AT&T informed the Board that Verizon-NJ had failed, for the past 17 months, to include five of six New Jersey area codes in specific performance metrics related to provisioning. Attachment 14. Importantly, KPMG did not recognize this error in its testing. Such unreliable performance reporting highlights the absolute need for robust commercial testing. It also directly contradicts Verizon-NJ's claims of nondiscriminatory access to OSS and places in doubt regulators' abilities to prevent backsliding by Verizon-NJ.

There Has Been No Experience with the New UNE Rates

16. The Board recently established new UNE rates on December 17, 2001. Verizon-NJ has yet to fully implement these rates. *See* Attachment 17. In my experience, a regulator can only judge nondiscriminatory access to UNEs through experience with the new UNE rates by competitors and consumers. There has not yet been time for such experience to be gained. Indeed, if anything, evidence since the Board's December 17, 2001 Order raises the concern that Verizon-NJ has failed to comply with the Board's UNE Order. Attachments 15, 16. In fact, Verizon-NJ told the BPU on January 10, 2002, that Verizon-NJ is still working to implement the BPU's UNE Order and that the new rates "will likely not be reflected until the first or second bill after the software implementation is completed." Letter from Bruce D. Cohen, Verizon-NJ, to Henry Odgen, Acting Secretary, BPU, Jan. 10, 2002 (Attachment 19); *see also* Attachment 17.

Competition in the Local Exchange Market is Critical to Protecting the Public Interest

17. The Ratepayer Advocate is committed to the principle that local competition is critical to protecting the public interest. Until consumers have access to effective competition in local services, Verizon-NJ will have the opportunity and incentive to use its market power to the detriment of New Jersey ratepayers through increased prices and lower service quality. *See*

Attachment 5. Absent the incentive provided by section 271, only effective competition will give Verizon-NJ the proper incentives to lower prices and increase service quality and innovation to the benefit of New Jersey ratepayers.

18. To date, however and as explained above, competition has not developed in New Jersey. *See* Attachments 2, 7, 9, 20. And with the recent bankruptcies of several CLECs, there are fewer carriers left to foster such competition. *See* Attachments 10, 11. Statements from Verizon's co-CEO Ivan Seidenberg calling "this whole scheme of CLEC interconnection a joke" give me great concern that Verizon-NJ ever intends to open its local markets to competition. James K. Glassman, Op-Ed, *Verizon Exploited a National Tragedy*, THE WASHINGTON TIMES, Oct. 23, 2001 at A19 (Attachment 4); *see also* Attachments 3, 5. Without the necessary constraint of competitive pressures, significant numbers of New Jersey ratepayers will likely be harmed by a grant of section 271 authority. *See* Attachments 2, 7, 9.

Structural Separation is Necessary to Protect the Public Interest

19. The Commission should make structural separation of Verizon-NJ's wholesale and retail business units a condition of any grant of section 271 authority. If competition and consumers are to have a chance once Verizon-NJ can again offer a full array of long distance service together with its monopoly service, the Commission should do all it can to diminish Verizon-NJ's incentive and ability to retard competition and discriminate against its retail competitors. I fear that any course other than structural separation will rapidly recreate the monopolistic conditions that prevailed before the Bell System divestiture. I fully subscribe to the views expressed by Edythe S. Miller, former chair of the Colorado Public Utilities Commission, who stated:

An additional step is required, at least when it comes to traditional utilities: the separation of competitive from network services, preferably in independent

companies, but at a minimum structurally separated units. In the absence of such a requirement, the potential for abuse remains

Edythe S. Miller, *The Impact of Technological Change on Market Power and Market Failure in Telecommunications*, *Journal of Economic Issues* (June 1, 2001) (Attachment 23).

20. As Ms Miller indicated, the ideal approach to structural separation would be full structural separation, with separate, completely independent corporations within Verizon, Inc., handling Verizon-NJ's retail and wholesale operations. These corporations would not share employees, assets or information, and the wholesale corporation would treat its retail operation in exactly the same way as other retail competitors.

21. As alternative approach that could achieve many of the benefits of full structural separation is functional/structural separation accomplished through a strong code of conduct and accounting requirements. I have seen this approach work in the deregulation of New Jersey's energy market. There, the Legislature has applied a strong code of conduct to the state's electric and gas utilities in the Electric Discount and Energy Competition Act, 1999 N.J. Laws 23 ("EDECA"). The New Jersey Board has significant experience with this approach through its activities under the EDECA and in implementing similar codes as part of its merger enforcement.

22. I urge the Commission to strongly consider one of these two measures. The dismal state of competition in New Jersey calls for strong measures, in the form of structural separation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January *14*, 2002

A handwritten signature in cursive script, reading "Blossom A. Peretz". The signature is written in black ink and is positioned above the printed name and title.

Blossom A. Peretz, Esq.

State of New Jersey Ratepayer Advocate

A premature filing

By BLOSSOM A. PERETZ

THE POSITION OF the Division of the Ratepayer Advocate is clear. We welcome Verizon New Jersey's entry into the long-distance market – when the time is right for consumers. Unfortunately, that time is not now.

Competition does not yet exist in the local telephone market. Consumers do not have affordable choice – in fact, they do not have any choice at all – for their basic local telephone service.

There can be no doubt that today Verizon monopolizes the local telephone market for residential services in New Jersey. By Verizon's own admission, it has captured 99.99 percent of the local residential telephone customers. From the Delaware Memorial Bridge in the south to the Delaware Water Gap in the north, there are only 280 residential customers who get their local telephone service over non-Verizon facilities. That's right! Only 280 residential customers out of more than 4 million.

What happens if the Board of Public Utilities recommends to the FCC that it grant Verizon authority under Section 271 of the federal Telecommunications Act of 1996 to enter the lucrative long-distance marketplace prematurely, before the market is ready, before there is competition, before there is choice for consumers?

If Verizon gets long-distance approval from the FCC, with its marketing power and brand-name advantage, with unfettered access to almost every local telephone customer in the state, Verizon will be able to aggressively package its local and long-distance services to eliminate the competition.

Some may ask, "What is wrong with Verizon's packaging local and long distance services? Shouldn't the state official who speaks for utility consumers support that?" Yes, I would, if it truly benefits consumers.

The result could be the eventual creation of a giant unregulated telephone monopoly controlling rates in both the local and long-distance market. To let Verizon into the long-distance market too soon is to effectively eliminate

consumer choice. Rates could almost certainly increase.

Ratepayers will never reap the benefits of a truly competitive marketplace – lower prices, affordable advanced services, and most importantly, consumer choice. Only irreversible competition can ensure that consumers have choice.

The message of the ratepayer advocate is very simple. It would not be in the public interest to approve Verizon's request at this time because the market for local telephones services in New Jersey has not matured sufficiently to allow the dominant local telephone monopoly to enter the long-distance market.

Also missing from Verizon's application is a proposal to create a comprehensive universal service fund to assist low-income consumers, as well as a firm commitment by Verizon to expand funding for technology enhancements for schools and libraries across New Jersey.

Additionally, Verizon has yet to satisfy the 14-point competitive checklist mandated by the 1996 Telecommunications Act. The jury is still out on the effects of two recent BPU actions to open the marketplace to competition, specifically, lowering the wholesale rate for access to Verizon's network and whether Verizon's system to transfer customer accounts will support commercial volumes in a fully competitive marketplace.

The FCC places considerable weight on the recommendation of the local state regulatory authority. Since Verizon has asked the FCC for long-distance authority before competition exists in the local telephone market, Verizon has forced the BPU to act now. The ratepayer advocate believes that because of Verizon's premature filing, the BPU's only recourse is to recommend to the FCC that it deny Verizon's request at this time.

Blossom A. Peretz is ratepayer advocate and director of the Division of the Ratepayer Advocate, which represents the interests of all classes of ratepayers before the Board of Public Utilities in matters relating to telecommunications, electricity, gas, and water/wastewater utilities.

CITY

By JAYSON BLAIR

Verizon Communications, New York's local phone carrier, has begun a lobbying effort in the wake of the terrorist attack on Sept. 11 that would give the company a competitive advantage, and its rivals are criticizing it for trying to profit from the disaster.

Since Sept. 11, Verizon executives and lobbyists have argued in Albany that the rates competitors pay to lease space on its networks should be increased to pay for new security and backup systems necessary in light of the attack.

In Washington, Verizon lobbyists have asked federal regulators to make it more difficult for competitors to lease space on its network, arguing that its success in restoring phone service in Lower Manhattan proves that only a big company could handle maintenance, recovery and security in the wake of such a disaster.

The trade center collapse knocked out nearly 300,000 telephone lines and damaged a central office that ran much of Verizon's network in Lower Manhattan, one of the most congested telecommunications hubs in the world. Verizon has been praised by many for its efforts to quickly restore phone service after the attack. But the company has also been criticized for not restoring service to some customers, particularly in Chinatown and other parts of Lower Manhattan, where Verizon says about 10,000 of its lines still do not work.

"Think about what happened at ground zero and ask yourself who else could do what we did," Ivan Seidenberg, the co-chief executive of Verizon, said during a speech at the National Press Club in Washington last week.

Mr. Seidenberg and other Verizon executives have advocated ending the practice of encouraging smaller

Verizon Seeks Advantage Over Smaller Competitors

Wants to Charge More to Lease Phone Lines

competitors to lease lines on its local telephone networks and then resell them to consumers. Verizon has long argued that this competitive business model was flawed.

The new twist is that Verizon's leaders and advocates have been arguing since Sept. 11 that all competitors should eventually be forced to build their own networks, in part because of the security and logistical challenges that became clear after the attack and during the recovery efforts.

"Verizon has really kicked up its public policy and lobbying presence since Sept. 11," said Michael Morrissey, vice president for law and government affairs at AT&T. "They did a good P.R. job in terms of the recovery efforts; frankly, they did a good job with recovery, although others did just as well."

But he added, "It comes as no surprise that their kind of solution is that if you want to take care of the problems of Sept. 11 and wipe out the threat of terrorism, 'wipe out my competitors'."

Verizon, an offspring of the old Bell network formed when Bell Atlantic and GTE merged last year, operates more than 128.5 million phone lines in 31 states and the District of Columbia. The company is New York's main local telephone company.

Mr. Seidenberg said that he would welcome competition from companies with the same scale as Verizon, but that smaller ones that lease lines on a local carrier's network would not be able to ensure security, build backup systems and pull off a recovery of the scale of what was needed after Sept. 11.

Verizon has made no public estimate of the total cost of the disaster. But company officials have told Wall Street analysts that they believe most of the cost will be covered by insurance.

In a speech last month at the Chief Executive Club in Boston, Chuck Lee, Verizon's chairman and other co-chief executive, made remarks similar to Mr. Seidenberg's. "For all the focus on the viability of small niche competitors in the communications industry, this was one instance where, when push came to shove, scale mattered," Mr. Lee said of the

recovery efforts.

The Telecommunications Act of 1996 allowed local carriers to enter the long distance business as they allowed other companies to compete with them in the local arena. The equation has turned out better for the local carriers, the Baby Bells, which have been able to make significant inroads into long distance service as other competitors have had a hard time piercing into their local customer base.

The telecommunications act forces Verizon to sell access to its network to competitors at a price that is capped by the New York State Public Service Commission. Verizon officials have long said those prices are too low, and they have repeated that with increasing insistence since Sept. 11.

All of Verizon's local competitors contend that they are not profitable in New York.

In response to a question from the Public Service Commission about the impact of the terrorist attacks, Verizon's regulatory counsel, Joseph A. Post, wrote a letter on Oct. 9 asking that the commission take into consideration the extra security costs when it reviews the amount that Verizon could charge for leasing the lines.

He also said that the small competitors that lease lines "did not and could not contribute in a meaningful way to the restoration of vital telecommunications services in Manhattan."

The Verizon lobbying efforts led three industry groups that are financed by Verizon's small competitors — the Competitive Telecommunications Association, the Association of Communications Enterprises and the Association for Local Telecommunications — to sharply rebuke the company in a letter to the Federal Communications Commission.

"Verizon's management tempting to gain commercial advantage from these sad events," the letter read. "Verizon is attempting to use this tragedy to gain nothing more than a de facto repeal of the Federal Telecommunications Act of 1996 and a return to an integrated monopoly."

The letter went on to say, "The scale and scope of the Verizon work is the cumulative byproduct of nearly 100 years of monopoly and government protection. The vision of the Federal Telecommunications Act of 1996 — that inherited scale and scope economies are to be shared with competitors — is as important today, in the wake of Sept. 11, as it was on the day that was passed."

Verizon executives and lobbyists have said that there are concerns about security when it comes to allowing technicians from competitors into its offices. More important, Verizon officials have said that the size of their company allowed them to pull in resources from all over the region for repair efforts, and that the size of Verizon's network allowed them to more easily reroute service.

In the days and weeks after the attack, as they scrambled to get New York Stock Exchange and other Lower Manhattan customers back online, Verizon officials warned that they would have to invest untold amounts of money into improving security and making a backup system for telephone service. Moves would include increasing physical security, like making its offices less vulnerable to blasts and fires, as well as network security, like adding computerized security that could be easily replaced.

1 of 2 DOCUMENTS

Copyright 2001 News World Communications, Inc.

The Washington Times

October 23, 2001, Tuesday, Final Edition

SECTION: PART A; COMMENTARY; OP-ED; Pg. A19

LENGTH: 975 words

HEADLINE: Verizon exploited a national tragedy;

Using disaster to damage smaller competitors is wrong

BYLINE: James K. Glassman

BODY:

Telecom firms responded quickly, courageously and diligently to the Sept. 11 destruction of the World Trade Center. From all reports, their actions were a shining example of competitors helping each other in a time of national emergency. But it didn't take long for selfless cooperation to degenerate into shameless exploitation. Verizon, the Bell company that suffered the most as the result of the attacks, has decided to use the disaster to press a narrow and familiar agenda: trying to eliminate its feisty, smaller competitors, once and for all.

When two hijacked planes crashed into the twin towers, Verizon's central office switching facility, which controls 3.5 million data circuits and 300,000 voice lines, was badly damaged. AT&T's local network in Manhattan was damaged. Qwest had power supplies knocked out. And dozens of other providers were hurt as well, mainly competitive local exchange carriers (CLEC) that hook into Verizon's local network under the terms of the Telecommunications Act of 1996.

But the response was swift. Verizon sent 3,000 technicians to help restore service in Manhattan. AT&T brought in special emergency-response tractor-trailers loaded with switching equipment. Company assisted company. Qwest, for example, "chipped in by sending Verizon switching equipment that had been earmarked for the upcoming Utah Olympics," reported CMP Media.

On the Monday after the terrorist attacks, Communications Daily noted that Ivan Seidenberg, co-CEO of Verizon, "praised AT&T, WorldCom, Sprint and other CLECs for their aid in the restoration effort. He said every CLEC had offered to help, particularly with relocating customer lines."

But suddenly, the tone changed. Verizon decided to seize on the Sept. 11 calamity as a new justification to gut the Telecom Act and deny competitors the ability to connect to their systems - and ultimately, to try to pass the pro-Bell Tauzin-Dingell bill, which is still tied up in the U.S. House of Representatives.

Two days after thanking the competitors, Mr. Seidenberg, at a Goldman Sachs conference in New York, called "this whole scheme of CLEC interconnection a joke." That wasn't the way he saw it in 1996, on the day the Telecom Act passed. Like other Bell executives, Mr. Seidenberg lauded the reform: "This new law promises communications users more choice, lower prices and better service." A key provision allowed CLECs to lease unbundled network elements (UNEs) from the

Bells - as a way to bring competition to local service after a century in which the Bells were a subsidized monopoly, nurtured and protected by government.

Leasing capacity in order to offer service is hardly a new or outrageous idea. In fact, Verizon itself leases facilities from long distance carriers in order to serve its own customers. That's because Verizon doesn't yet have the customer base to justify building its own long distance network. That's precisely the same logic that permits small carriers to lease Verizon's lines. It's a proven method to jump start competition: first get the base, then build out your own facilities. It worked in long distance, and it is already happening in local service.

So it was dismaying - although probably not surprising - that Mr. Seidenberg would ridicule his smaller competitors, which have not had the advantage of a century of government protection. Disingenuously, the Verizon executive said he would welcome competitors "our size" with their own facilities but not "this stuff" of competitors' seeking "seventh floor collocation space" to serve a handful of customers by tapping into a Bell network.

But Mr. Seidenberg's denigration of the competitors was just a set-up for a broader post-Sept. 11 line of attack - the contention that the provisions of the Telecommunications Act of 1996 constitute a serious danger to national security. "We need to rethink security," Mr. Seidenberg told Goldman Sachs, emphasizing the risks of giving access to CLEC technicians. "We've got people running through our buildings with FCC permits, and we don't even know who they are."

Mr. Seidenberg's comments on Sept. 19 were followed by an aggressive declaration in Scottsdale, Ariz., by Walter B. McCormick Jr., president of the U.S. Telecom Association, the Bells' trade group. Mr. McCormick, according to a report by Communications Today, said that the risks of terrorism "are increased by various rules that require ILECs incumbent local exchange carriers, i.e., the four mega-Bells to allow competitive local exchange carriers (CLECs) to have unbundled access to their networks and to collocate equipment at their premises."

Around the same time, Verizon filed a letter with the New York Public Service Commission, arguing that competitors should not be allowed to lease Verizon's network and that its ongoing network pricing case should be reopened since the Sept. 11 disaster had caused Verizon's prices to rise, affecting the prices it must charge competitors. And another Verizon executive tried to make the case that, because of terrorist threats, it was more important than ever that the Bells be strong financially (not-so-subtle message: pass Tauzin-Dingell).

The security of telecom systems is absolutely vital to the nation, but there is no evidence that technicians from competing companies are more of a risk than technicians from the Bells. In trying to exploit a national disaster to win a competitive advantage that Congress has so far, wisely, denied them, Verizon has behaved in an unseemly fashion. Perhaps that was to be expected - though, after the courageous response of many telecom firms to the calamity of Sept. 11, the shamelessness is sadly disappointing.

James K. Glassman is a fellow at the American Enterprise Institute and host of www.TechCentralStation.com.

LOAD-DATE: October 23, 2001

Electricity Deregulation Is Still Sound Policy

By Vijay Vaitheeswaran

SOME members of Congress say the collapse of Enron shows the need for a return to a regulated energy market. On the contrary, what the Enron debacle shows is that deregulation, carefully monitored, remains sound public policy — and is the best way to prevent future Enrons. Enron, a trading firm that noisily advocated — and profited from — the global move toward liberalized energy markets, declared bankruptcy two weeks ago. Coming on the heels of California's painful power crisis, the Enron debacle has seemed to some to be emblematic of the failure of electricity deregulation.

Vijay Vaitheeswaran is a correspondent for *The Economist* and is writing a book about the future of energy.

Nonsense. The financial troubles that undid Enron are not unique to the energy industry and are not the result of deregulation, as some members of Congress have asserted. In fact, Enron's demise should be taken as an opportunity to strengthen the move toward competitive power markets.

Unlike successful efforts in places like Britain and Scandinavia, energy restructuring in America has been a half-hearted, half-baked affair. One reason is that the United States is a more complicated market. But the biggest hurdles to success are regulatory turf battles and the lack of a proper federal framework.

Trapped between the safe but inefficient world of monopoly and the innovative but volatile world of competition, Americans could get stuck with the worst of both. To get out of this trap, politicians and regulators should accelerate, not abandon, reforms.

It's clear that regulators must in-

crease their market surveillance — to be sure that firms are not colluding to raise prices in the way they shut down power plants for maintenance, for example. Deregulation is not the same as no regulation. Experience in other nations shows that competition in energy works if there is a strong, but carefully circumscribed, role for reg-

Learning the right lessons from the collapse of Enron.

ulators — especially during the heady, uncertain transition phase.

Toward that end, Congress should expand the powers of the Federal Energy Regulatory Commission to include supervision of government-run

utilities, ranging from tiny municipal power companies to the giant Tennessee Valley Authority, that now fall outside its purview. This would at least bring some rationality to a system that is now a patchwork of differing rules for local, federal and private-sector utilities. Congress should also increase the commission's budget to help it crack down on utilities that prevent rivals from using their high voltage lines to trade power.

Even as they look for market abuses, like manipulation of power auctions, officials at the federal and state levels must encourage the development of markets. Enron was an aggressive giant, but most gas and power companies are actually small and highly suspicious of competition. That is because America still has the most fragmented, and perhaps the least efficient, utility industry in the developed world. Congress should dismantle Depression-era laws preventing power companies from entering new businesses, for example.

The power market and regulatory agencies are balkanized: state and federal regulators still squabble, and rules vary regionally on such things as connection to the grid. This greatly discourages investment in neglected areas like transmission lines and in promising "micropower" technologies, like fuel cells, which often need to be connected to the grid to be economically viable.

Supporters of deregulation should see Enron's fall as an opportunity to push for greater transparency and more competition. In both chambers of Congress, energy bills have surfaced recently that could provide a comprehensive federal framework for electricity regulation. Senator Jeff Bingaman of New Mexico, for example, would streamline the rules governing the use of transmission lines.

Designed wisely, energy deregulation can produce a wave of innovation in the utility business every bit as sweeping as that which spawned the telecommunications revolution. □

